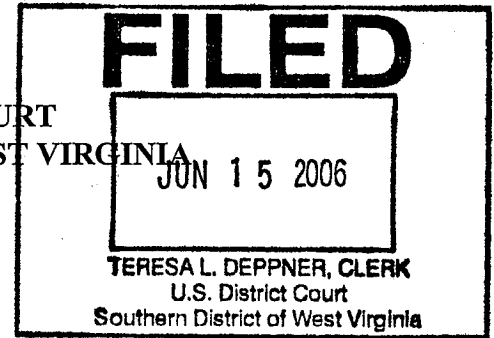


UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION



ELAINE L. CHAO,
SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

Civil Action No. 2:06-0471

v.

ARACOMA COAL COMPANY, INC.,

Defendant.

**APPLICATION FOR PRELIMINARY INJUNCTION
AND COMPLAINT FOR PERMANENT INJUNCTION**

1. This action is brought pursuant to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801- 926 (hereinafter the "Mine Act").

2. Jurisdiction is founded upon Section 108(a)(1) of the Mine Act, 30 U.S.C. § 818(a)(1).

3. At all times herein mentioned Defendant Aracoma Coal Company, Inc. ("Aracoma") operated, and continues to operate, the Aracoma Alma Mine #1, a mine subject to the provisions of the Mine Act, in Stollings, Logan County, West Virginia, within the jurisdiction of this Court.

4. The Aracoma Alma Mine #1 is a mine that has products that enter commerce or has operations or products that affect commerce as defined by Section 3(d) of the Mine Act, 30 U.S.C. § 801(d).

5. On January 19, 2006, miners Ellery Elvis Hatfield and Don Israel Bragg died as a result of an accident involving an underground mine fire in the Aracoma Alma Mine #1.

6. Pursuant to Section 103(a) of the Mine Act, 30 U.S.C. § 813(a), the Secretary of Labor ("Secretary"), through the Mine Safety and Health Administration ("MSHA"), has been

conducting, and continues to conduct, an investigation into the accident that occurred on January 19, 2006, at the Aracoma Alma Mine #1.

7. As part of this accident investigation and pursuant to its authority under Section 103(a), 30 U.S.C. § 813(a), and Section 103(h), 30 U.S.C. § 813(h) of the Mine Act, MSHA has requested Aracoma to provide various documents, information, and items of physical evidence in thirteen separate requests. See Declaration of Kenneth A. Murray; Exhibits 1-13. The first request was issued on January 31, 2006, and the most recent request was issued on May 4, 2006. See Declaration of Kenneth A. Murray; Exhibits 1 and 13. Aracoma has either refused to provide, or simply has not provided several documents, items of information, and items of physical evidence sought by MSHA in the course of its investigation. See Declaration of Kenneth A. Murray; Exhibit 20.

8. On May 26, 2006, MSHA sent a letter to Aracoma's attorneys with an attached spreadsheet specifying all of the requested documents, information, and items of physical evidence that had not been provided. See Exhibit 26. This letter gave Aracoma an additional two weeks, until June 9, 2006, to provide the requested items. Aracoma was advised that if the requested information was not provided, the Secretary would file a civil action in District Court seeking injunctive relief and an order requiring Aracoma to provide the outstanding documents, information, and items of physical evidence.

9. On June 9, 2006, counsel for Aracoma sent a letter to MSHA responding to MSHA's May 26, 2006, letter. See Exhibit 27. In this June 9, 2006, letter, Aracoma again refused to provide certain documents and information requested by MSHA. See Exhibit 27. Although it provided some documents to MSHA on June 11, 2006, Aracoma has still not provided to

MSHA's accident investigation team several requested documents, items of information, and items of physical evidence. See Declaration of Kenneth A. Murray.

10. Aracoma's failure to provide MSHA with the requested documents, information, and physical evidence is interfering with, hindering, and delaying the Secretary in conducting her investigation. See Sections 108(a)(1)(B), 108(a)(1)(E), and 108(a)(1)(F) of the Mine Act. 30 U.S.C. §§ 818(a)(1)(B), (E), and (F).

PRAYER FOR RELIEF

WHEREFORE, The Secretary:

1. Requests a preliminary and permanent injunction restraining Aracoma, its officers, agents, servants, employees, attorneys, affiliates, and all persons in active concert or participation with them from interfering with, hindering, or delaying the Secretary or her authorized representatives in the conduct of the investigation of the January 19, 2006, fatal mine accident that occurred at the Aracoma Alma #1 Mine.

2. Requests a preliminary and permanent injunction restraining Aracoma, its officers, agents, servants, employees, attorneys, affiliates, and all persons in active concert or participation with them from refusing to produce or otherwise withholding the documents, information, and physical evidence requested by the Secretary which are listed in the Declaration of Kenneth A. Murray attached hereto.

3. Requests a preliminary and permanent injunction restraining Aracoma, its officers, agents, servants, employees, attorneys, affiliates, and all persons in active concert or participation with them from refusing to furnish or otherwise withholding any information or report requested by the Secretary in furtherance of the provisions of the Mine Act.

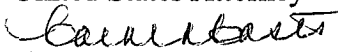
4. Requests a preliminary and permanent injunction restraining Aracoma, its officers, agents, servants, employees, attorneys, affiliates, and all persons in active concert or participation with them from refusing to permit access to, or otherwise not permitting access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of the Mine Act.

5. Requests a preliminary and permanent injunction ordering Aracoma, its officers, agents, servants, employees, attorneys, affiliates, and all persons in active concert or participation with them to conduct a thorough and reasonable search of their property and all property under their control, and all property under the control of their affiliates, including Massey Energy Company, for any items listed in the attached declaration for which Aracoma has contended that it does not have or that do not exist, and to provide a sworn statement indicating the results of the search.

6. Requests any other relief deemed appropriate by the Court.

Respectfully submitted,

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